Supreme Court, U.S.
FILED
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NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

FRED D. BROUSSARD, PETITIONER

Vs.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
INSTITUTIONS DIVISION,ET AL., RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Fred D. Broussard

P.O. Box 270076

Houston, Texas 77277

Phone: (713) 526-6917

QUESTIONS PRESENTED

1. Whether the district court erred in concluding that petitioner had not sufficiently substantiated claims of unconstitutional race-based employment practices or unlawful retaliation by TDCJ to survive motion for summary judgement?

2. Whether the district court egregiously abused its discretion in arbitrarily vacating a trial date by saliently ignoring indisputable documentation warranting jury trial.

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgement is the subject of this petition is as follows:

Fred D. Broussard	Petitioner
Terry Foster	Respondent
Don Kasper	Respondent
Don Keil	Respondent
Brent Larson	Respondent
Thomas Medart	Respondent
Mark Pickett	Respondent
Billy Pierce	Respondent
John Starliper	Respondent
Texas Department of Criminal Justice	Respondent

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IN THE
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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgement below.

OPINIONS BELOW

The opinion of the United States court of appeals dated July 19, 2007 appears at Appendix A to the petition and is unpublished.

The memorandum and order granting summary judgement dated May 30, 2006 appears at Appendix B to the petition and is unpublished.

The memorandum and order denying petitioner's motion for reconsideration, dated June 26, 2007 appears at Appendix C to the petition and is unpublished.

The memorandum and order reflecting a trial date in this action was set for April 24, 2006 appears at Appendix D to this petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was July 19, 2007

No motion or petition for rehearing was timely filed in my case.

The Jurisdiction of this Court is respectfully invoked under Title 28 U.S.C. Section 1254 (1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const.Amend. I: "Congress make no law respecting an establishing of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, **and to petition the Government for a redress of grievances.**" (Emphasis added)

U.S. Const. Amend. XIV, Section 1: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; "**nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws"** (emphasis added)

STATEMENT OF THE CASE

Petitioner Fred A. Broussard, a Black American citizen and Ordained Christian Minister of the Baptist Faith served in the capacity of a chaplaincy volunteer and the Central Unit of the Institutions Division, Texas Department of Criminal Justice (TDCJ), located near Houston, Texas, from 1985 until early 1997, when he was officially hired and worked as a salaried Chaplin until September of 2003, eventually being involuntarily transferred to the Michael Unit Of the TDCJ, some one-hundred and fifty (150) miles from his home and family in Houston, Texas, on the ostensible authority of a "reduction in force". On July 21, 2003, Petitioner filed a formal complaint of racial discrimination to the U.S. Equal Employment Opportunity Commission (EEOC),; several weeks after Petitioner had filed his formal EEOC complaint, Warden Foster at Central Unit, TDCJ, filed a retaliatory harassment disciplinary action against Petitioner and forwarded same to Warden Castro at the Michael Unit, TDCJ, which subsequently was dismissed outright after

investigation. After Petitioner's physician determined serious health problems were actuated by stress from ongoing harassment and the arduous commute, upon physicians advise, on December 31, 2003, Petitioner retired from his position with TDCJ, after which Petitioner filed a second EEOC charge of harassment and retaliation, all of which formed the foundation for the civil rights action filed in federal district court against eight White Defendant-Respondents individually and in their respective official capacities with TDCJ.

REASONS FOR GRANTING THE PETITION

The decision below found that the district court did not fall into error by granting the defendants summary judgement on Petitioners discrimination claim for reason that "The TDCJ put forth a legitimate nondiscriminatory reason for the transfer –that it was implemented according to seniority and that others who were not reassigned had more time with the state **(sic)** Broussard. Broussard has not put forth any evidence that TDCJ's reason was pretest or that if was true, race was a motivating factor." (Slip Opinion p.4)

This finding flies in the face of superabundant evidence Petitioner provided to the district court altogether supportive of the sixteen (16) highly specified instances of racism, discrimination through disparate impact in hiring practices, hostility, harassment and retaliatory actions set forth at pages 25-31 0f Petitioners Second Amended Complaint filed May 9. 2005, suffered by and visited upon the Black American

Petitioner at the hands of , and through machinations devised by the eight (8) named White Americans who were the designated Defendants (now, Respondents) in this action. The respective Justices of this Honorable Court are well aware that "racism" carries connotations of race-based bigotry, prejudiced, violence, oppression, stereotyping, and discrimination, and that the term "racial discrimination" according to the UN International Convention on the Elimination of All Forms of Racial Discrimination (March 7, 1966) means **ANY** distinction, exclusion, restriction or **PREFERENCE** based on race, colour, descent, or nature al of ethnic origin which has the purpose **OR EFFECT** of nullifying or impairing the recognition enjoyment or exercise, of an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life, (emphasis all mine), and viewing the foregoing as seen through the prism of facts and the realities of Petitioners day-today prison experiences,

as fully documented and presented to the Houston, Texas federal district court in Civil Action No. H-04-1059, it becomes obvious that Petitioner was subjected to "reassignment with significantly different responsibilities" **i.e.,** "tangible employment action", specifically identified in **Burlington Industries, Inc. v. Ellerth,** 524 U.S., at 761-762 (1998) as constituting a significant change in employment status.

Had the district judge in this case actually view **ALL** the evidence Petitioner duly submitted in the light most favorable to Petitioner, the nonmoving party, and drawn **all reasonable inference** in Petitioners favor, Petitioner would have had this case tried before a jury of his peers, as provided for in **Fed.R. Civ P. 38**, and requested in his **Jury Demand** of May 6 2005, found at page 36 of Petitioner's Second Amended Complaint filed May 9, 2005. The district court erred in concluding that Petitioner had not sufficiently substantiated his claim of unconstitutional race-based employment

practices and the unlawful retaliation recognized and delineated by this Courts interpretation of **Section 704(a)** of **Title VII's** anti-retaliation provision, **42 U.S.C. Section 2000e-3(a),** found in **Burlington N. & Santa Fe V. White,** ___U.S. ____, ____ (2006), 126 S.Ct 2405 (No. 05-259, June 22, 2006), at the hands of the Defendants-Respondents in this case.

CONCLUSION

The petition for a writ of certiorari should be granted

Respectfully Submitted,

/s/
Fred D. Broussard pro se

Date: October 17, 2007

No._____

_____

In The

SUPREME COURT OF THE UNITED STATES

Fred D. Broussard, Petitioner

Vs.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE-

INSTITUTIONS DIVISION, ET AL,. RESPONDENTS

PROOF OF SERVICE

I Fred D. Broussard, do swear or declare that on this date October 17, 2007 as required by the Rules of this Honorable Court, I have served a true and correct copy of the enclosed PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding, and on every person required to be served or those party's designated counsel, by depositing

an envelope containing the above documents in the

United States mail, properly addressed to designated counsel, with first class postage pre-paid, or by delivery to a third party commercial carrier for delivery within 3 calendar days, addressed as follows:

SUSAN WERNER, ESQ.

Assistant Attorney General

For The State Of Texas

Attorney For Defendants

State Bar No. 21190350

P.O. Box 12548, Capitol Station

Austin, Texas 78711

I declare under penalty of perjury that the foregoing is true and correct

Executed on October 17, 2007

Signed ___/s/_____

Fred D. Broussard, Petitioner